

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THOMAS EDWARD BERGERON,
III,

Appellant,

v.

DEUTSCHE BANK NATIONAL
TRUST COMPANY, et al.,

Appellees.

CASE NO. C24-1815JLR

ORDER

I. INTRODUCTION

Before the court are *pro se* Appellant Thomas Edward Bergeron III's appeals of three orders of the United States Bankruptcy Court for the Western District of Washington. (*See* C24-1815JLR, Bergeron Br. (Dkt. # 10); Bergeron Reply Br. (Dkt. # 14); C24-2069JLR, Bergeron Br. (Dkt. # 8); Bergeron Reply Br. (Dkt. # 11); C24-2070JLR, Bergeron Br. (Dkt. # 8); Bergeron Reply Br. (Dkt. # 10).) The court has

1 considered the parties' submissions, the balance of the record, and the applicable law.
 2 Being fully advised,¹ the court AFFIRMS each of the appealed orders of the bankruptcy
 3 court.

4 II. BACKGROUND

5 The three appeals before the court arise out of Mr. Bergeron's chapter 13
 6 bankruptcy case before the United States Bankruptcy Court for the Western District of
 7 Washington. *See In re Bergeron III*, No. 24-11728CMA (Bankr. W.D. Wash.).² Mr.
 8 Bergeron filed his chapter 13 case on July 12, 2024. (*See* Bankr. Dkt. # 1.) Mr. Bergeron
 9 filed a proposed chapter 13 plan of reorganization on August 9, 2024. (Bankr. Dkt. # 20.)

10 As relevant here, Carrington Mortgage Services, LLC ("Carrington"), acting on
 11 behalf of Deutsche Bank National Trust Company as Indenture Trustee for New Century
 12 Home Equity Loan Trust 2006-1 ("Deutsche Bank"), filed a secured claim in the amount
 13 of \$927,191.79 incurred in connection with a note and deed of trust that Mr. Bergeron
 14 and his wife executed in favor of New Century Mortgage Corporation ("New Century").
 15 (*See* Claims Register, Claim 1-1; *see* Bankr. Dkt. # 23 at 1-2.) On September 16, 2024,
 16 Deutsche Bank objected to confirmation of Mr. Bergeron's proposed plan. (Bankr. Dkt.
 17 # 23.) On September 23, 2024, Mr. Bergeron filed an objection to Deutsche Bank's
 18 claim on the basis that there was no evidence, in Mr. Bergeron's view, that New Century
 19 properly assigned its interest in the note and deed of trust to Deutsche Bank. (Bankr.

21 ¹ The parties did not request oral argument, and the court concludes that oral argument is
 22 not necessary to decide Mr. Bergeron's appeals. *See* Local Rules W.D. Wash. LCR 7(b)(4).

² Citations to the bankruptcy case docket hereinafter appear as "Bankr. Dkt."

1 Dkt. # 24 at 3.) Mr. Bergeron therefore asserted that Deutsche Bank’s claim was
2 fraudulent. *Id.* at 4. Mr. Bergeron filed a notice setting his claim objection for hearing
3 on November 7, 2024. (Bankr. Dkt. # 33.)³

4 On September 25, 2024, the chapter 13 trustee (“Trustee”) objected to
5 confirmation of Mr. Bergeron’s proposed plan on fifteen bases, including, among others,
6 that Mr. Bergeron failed to provide the Trustee with certain required information in
7 support of his proposed plan, failed to pay the filing fee, and that his proposed plan did
8 not meet the statutory requirements for confirmation. (Bankr. Dkt. # 26.) On September
9 26, 2024, the Trustee moved to dismiss Mr. Bergeron’s bankruptcy case on the basis that
10 his proposed plan was filed in bad faith. (Bankr. Dkt. # 27.) The hearing on the
11 Trustee’s motion to dismiss was set for November 6, 2024. (*See id.*)

12 At the October 2, 2024 confirmation hearing, the bankruptcy court orally denied
13 Mr. Bergeron’s proposed plan. (*See* Bankr. Dkt. ## 35-37.) On October 3, 2024, the
14 bankruptcy court entered a written order denying plan confirmation and ordering Mr.
15 Bergeron to file a proposed amended chapter 13 plan correcting the deficiencies
16 identified in that order by October 23, 2024. (*See* Bankr. Dkt. # 37.) The bankruptcy
17 court continued the plan confirmation hearing to November 20, 2024. (*See* 10/3/24
18 Bankr. Dkt. Entry.)

19 Mr. Bergeron did not file a proposed amended plan. (*See generally* Bankr. Dkt.)
20 Instead, on October 17, 2024, Mr. Bergeron moved for reconsideration of the bankruptcy

21 _____
22 ³ Mr. Bergeron did not file a notice setting his objection for hearing until October 2,
2024. (Bankr. Dkt. # 33.)

1 court's October 3, 2024 plan confirmation denial order. (Bankr. Dkt. # 43.) The
2 bankruptcy court denied Mr. Bergeron's motion for reconsideration on October 18, 2024,
3 reasoning that Mr. Bergeron had not identified any new facts or evidence justifying
4 reconsideration of the court's plan confirmation denial order. (Bankr. Dkt. # 44.) On
5 October 29, 2024, Mr. Bergeron filed an objection to the Trustee's motion to dismiss the
6 case. (Bankr. Dkt. # 49.)

7 On November 4, 2024, Mr. Bergeron appealed the bankruptcy court's October 18,
8 2024 order denying his motion for reconsideration. (Bankr. Dkt. # 54.) Two days later,
9 at the November 6, 2024 hearing on the Trustee's dismissal motion, the bankruptcy court
10 orally ruled that Mr. Bergeron filed his chapter 13 petition in bad faith and accordingly
11 dismissed his case and barred him from refiling for bankruptcy for 180 days. (Bankr.
12 Dkt. # 61 (audio file) ("MTD Hearing").) The bankruptcy court also orally ruled that the
13 dismissal of Mr. Bergeron's bankruptcy case rendered his objection to Deutsche Bank's
14 claim moot. (MTD Hearing at 18:50-19:30.) On November 7, 2024, the bankruptcy
15 court entered a written order dismissing Mr. Bergeron's chapter 13 case. (Bankr. Dkt.
16 # 62.) On November 13, 2024, the court entered a written order overruling Mr.
17 Bergeron's claim objection as moot. (Bankr. Dkt. # 68.)

18 On November 21, 2024, Mr. Bergeron moved for reconsideration of the
19 bankruptcy court's November 7, 2024 dismissal order. (Bankr. Dkt. # 75.) The
20 bankruptcy court denied that motion on November 25, 2024. (Bankr. Dkt. # 76.) On
21 December 9, 2024, Mr. Bergeron appealed the bankruptcy court's November 7, 2024
22

1 dismissal order and November 25, 2024 order denying his motion for reconsideration of
2 the dismissal order. (Bankr. Dkt. ## 81, 82.)

3 III. ANALYSIS

4 Below, the court addresses each of Mr. Bergeron's appeals in turn.⁴

5 A. Mr. Bergeron's Appeal of the Bankruptcy Court's October 18, 2024 Order 6 (C24-1815JLR)

7 The court begins with Mr. Bergeron's appeal of the bankruptcy court's October
8 18, 2024 order denying his motion for reconsideration of its October 3, 2024
9 confirmation denial order. As a preliminary matter, the Trustee contends that the court
10 does not have jurisdiction over Mr. Bergeron's appeal because the bankruptcy court's
11 confirmation denial order is an interlocutory, non-final order. (C24-1815JLR, Trustee
12 Br. (Dkt. # 13) at 15-16.)⁵

13 As noted, Mr. Bergeron appealed the bankruptcy court's October 18, 2024 order
14 denying reconsideration of the confirmation denial order—not the confirmation denial
15 order itself. (*See* C23-1815JLR Not. (Dkt. # 1); Bankr. Dkt. # 54.) In any event, "[a]n
16 order denying reconsideration is interlocutory if the underlying order is interlocutory." *In*
17 *re 450 S. Burlington Partners LLC*, No. CV 09-4097 PSG, 2009 WL 2460880, at *4 n.2
18 (C.D. Cal. Aug. 5, 2009) (quoting *Wilson v. Wells Fargo Bank, N.A. (In re Wilson)*, 402

19 ⁴ On June 3, 2025, the court consolidated Mr. Bergeron's three appeals. (*See*
20 C24-1815JLR, 6/3/25 Order (Dkt. # 15).) Although the cases have been consolidated for
21 administrative purposes, the court considers each of Mr. Bergeron's three appeals separately, as
22 noted below.

⁵ Unless stated otherwise, the citations to the record in this section III.A refer to the
C24-1815JLR (W.D. Wash.) docket.

1 B.R. 66, 68 (B.A.P. 1st Cir. 2009)). Accordingly, whether Mr. Bergeron’s appeal of the
2 October 18, 2024 order denying his motion for reconsideration is interlocutory depends
3 on whether the October 3, 2024 confirmation denial order is interlocutory. *See id.*

4 Generally, an order denying confirmation of a chapter 13 plan is an interlocutory
5 order which may be appealed only if the appellate court grants leave. *In re Giesbrecht*,
6 429 B.R. 682, 687-88 (B.A.P. 9th Cir. 2010). Thus, the bankruptcy court’s October 3,
7 2024 confirmation denial order—and therefore, its October 18, 2024 order denying
8 reconsideration—were interlocutory, non-final orders at the time Mr. Bergeron appealed
9 the October 18, 2024 order.

10 An order denying plan confirmation, however, is not interlocutory if “*the*
11 *underlying [bankruptcy] case is also dismissed.*” *See id.* (emphasis added) (citing cases).
12 That is because an interlocutory order becomes final and appealable once a final
13 dismissal order is entered. *See Hall v. City of Los Angeles*, 697 F.3d 1059, 1070-71 (9th
14 Cir. 2012) (noting general rule that interlocutory rulings merge into the final judgment
15 and are within the appellate court’s jurisdiction to review on appeal); *see also Cato v.*
16 *Fresno City*, 220 F.3d 1073, 1074-75 (9th Cir. 2000) (holding that entry of subsequent
17 order fully and finally disposing of the matter “cured” the defect in counsel’s immediate
18 notice of appeal). Accordingly, the bankruptcy court’s October 18, 2024 interlocutory
19 order became final and appealable once the bankruptcy court dismissed Mr. Bergeron’s
20 chapter 13 case. Therefore, from a finality perspective, Mr. Bergeron’s appeal of the
21 bankruptcy court’s October 18, 2024 order is properly before this court. The court will
22

1 therefore consider the merits of Mr. Bergeron’s appeal of this order.⁶ The court reviews a
 2 bankruptcy court order denying a debtor’s motion for reconsideration for abuse of
 3 discretion. *In re Erickson*, No. 23-60037, 2024 WL 4273821, at *1 (9th Cir. Sept. 24,
 4 2024).

5 In his opening brief, Mr. Bergeron argues that the bankruptcy court erred by
 6 (1) denying confirmation of his chapter 13 plan before adjudicating his objections to
 7 Deutsche Bank’s claim and other alleged misconduct; (2) failing to question the Trustee
 8 about his investigation of Mr. Bergeron’s objections to Deutsche Bank’s claim; and
 9 (3) failing “to use its equitable powers to prevent injustice” to Mr. Bergeron.⁷ (Bergeron
 10 Br. at 5-6.) The court addresses Mr. Bergeron’s arguments below.

11 1. Denial of Plan Confirmation

12 Mr. Bergeron challenges the bankruptcy court’s denial of plan confirmation in his
 13 chapter 13 case. As Mr. Bergeron acknowledges, the United States Bankruptcy Code
 14 (“Bankruptcy Code”) requires a bankruptcy court to confirm a debtor’s plan *if the plan*
 15

16 ⁶ Mr. Bergeron also appears to make arguments related to the bankruptcy court’s
 17 November 7, 2024 dismissal order in his briefing. (*See, e.g.*, Bergeron Br. at 7, 11-13, ; *see*
 18 Bergeron Reply Br. at 10-14, 16-17.) Because Mr. Bergeron separately appealed the dismissal
 19 order (*see* C24-2069JLR, Not. (Dkt. # 1)), and because Mr. Bergeron appealed the bankruptcy
 20 court’s order denying reconsideration of its plan confirmation denial order in the instant appeal
 21 (*see* C24-1815JLR, Not. (Dkt. # 1)), the court does not address Mr. Bergeron’s dismissal order
 22 arguments in this section; rather, Mr. Bergeron’s appeal of the dismissal order is addressed
 below in section III.B.

⁷ Mr. Bergeron also asserts that the Trustee’s filing of his motion to dismiss “prejudiced
 the [bankruptcy court] by being filed before [Mr. Bergeron’s] objections [to Deutsche Bank’s
 claim] were heard.” (Bergeron Br. at 5.) The court is not aware of any authority holding that a
 motion to dismiss a bankruptcy case cannot be filed before claim objections are heard. The court
 accordingly finds no error here.

1 *satisfies the statutory requirements of section 1325(a).* 11 U.S.C. § 1325(a); (*see*
2 Bergeron Br. at 13). During the October 3, 2024 confirmation hearing, the bankruptcy
3 court held that Mr. Bergeron’s proposed plan did not satisfy the requirements for plan
4 confirmation for the reasons articulated in the Trustee’s objection, including that Mr.
5 Bergeron had failed to disclose certain property and payments made to third parties,
6 failed to file his bankruptcy schedules and statement of financial affairs, and did not
7 propose to pay certain creditors. (Bankr. Dkt. # 36 (audio file) (“Confirmation Hearing”)
8 at 8:38-9:25; *see* Bankr. Dkt. # 26 (listing Trustee’s objections).) Mr. Bergeron
9 participated in the confirmation hearing and did not dispute the Trustee’s objections.
10 (*See generally* Confirmation Hearing.) And after the bankruptcy court orally denied
11 confirmation of Mr. Bergeron’s plan, Mr. Bergeron affirmed that he understood the
12 court’s order. (*Id.* at 14:30-14:38.)

13 In his motion seeking reconsideration of the plan confirmation denial order, Mr.
14 Bergeron provided no evidence demonstrating that he satisfied the statutory requirements
15 for plan confirmation; instead Mr. Bergeron raised various issues in connection with his
16 objection to Deutsche Bank’s claim. (*See* Bankr. Dkt. # 43.) In its order denying
17 reconsideration, the bankruptcy court noted that Mr. Bergeron’s motion focused on
18 Deutsche Bank’s claim, and held that Mr. Bergeron had failed to provide new facts or
19 law justifying reconsideration of the plan confirmation denial order. (Bankr. Dkt. # 44.)
20 Having reviewed the record, the court concludes that the bankruptcy court did not abuse
21 its discretion in denying Mr. Bergeron’s motion for reconsideration of the plan
22 confirmation denial order.

1 Mr. Bergeron's arguments on appeal are also grounded in his objection to
2 Deutsche Bank's claim. Specifically, Mr. Bergeron argues that the plan confirmation
3 denial order was improper because the bankruptcy court did not first adjudicate his
4 objection to Deutsche Bank's claim. (*See* Bergeron Br. at 13-14.) Mr. Bergeron asserts
5 that *In re Heath*, 331 B.R. 424 (9th Cir. B.A.P. 2005), supports his argument. (Bergeron
6 Br. at 14.) The court disagrees. The Bankruptcy Appellate Panel in *Heath* affirmed the
7 bankruptcy court's order allowing certain creditors' claims in the debtor's ongoing
8 bankruptcy case. *Heath*, 331 B.R. at 438. Plan confirmation was not at issue in that case.
9 *See generally id.* Accordingly, *Heath* is inapposite.

10 Mr. Bergeron cites to several other cases that purportedly support his assertion that
11 the bankruptcy court was required to adjudicate his claim objection before denying plan
12 confirmation. (*See* Bergeron Br. at 14-15, 21-22 (citing cases).) None of these cases,
13 however, supports Mr. Bergeron's position. In *United Student Aid Funds, Inc. v.*
14 *Espinosa*, 559 U.S. 260 (2010), the United States Supreme Court considered the propriety
15 of a bankruptcy court's order confirming a plan that discharged student loan debt. *See*
16 *generally id.* The Bankruptcy Appellate Panel in *In re Veal*, 450 B.R. 897 (B.A.P. 9th
17 Cir. 2011) considered whether a loan servicer had standing to seek relief from the
18 automatic stay. *See id.* at 914, 922. In *In re Bozeman*, 57 F.4th 895 (11th Cir. 2023), the
19 Eleventh Circuit considered the res judicata effect of a confirmation order—an issue not
20 applicable here. *See id.* at 914-16. In *In re Bonner Mall Partnership*, the Ninth Circuit
21 considered whether the “new value exception” remained a viable doctrine following the
22 enactment of the Bankruptcy Code. 2 F.3d 899, 901 (9th Cir. 1993). And plan

1 confirmation is not even mentioned in *In re Marino*, 949 F.3d 483 (9th Cir. 2020), *In re*
2 *Schwartz-Tallard*, 803 F.3d 1095 (9th Cir. 2015), or *In re Canino*, 185 B.R. 584 (B.A.P.
3 9th Cir. 1995).⁸ Accordingly, these cases do not change the court’s analysis.

4 2. Questioning the Trustee

5 Mr. Bergeron also contends that the bankruptcy court erred by failing to question
6 the Trustee regarding his investigation of Mr. Bergeron’s objection to Deutsche Bank’s
7 claim. (Bergeron Br. at 5.) The Trustee’s investigation of Deutsche Bank’s claim,
8 however, has no bearing on whether Mr. Bergeron proposed a plan that satisfied the
9 statutory requirements for confirmation.⁹ Accordingly, the court finds no error here.

10 3. “Equitable Powers to Prevent Injustice”

11 Mr. Bergeron further asserts that the bankruptcy court erred by “failing to use its
12 equitable powers to prevent injustice” to him. (*Id.*) Mr. Bergeron does not explain which
13 “equitable powers” he is referring to. Nevertheless, as explained, the court finds no
14 “injustice” in the bankruptcy court’s decision to deny reconsideration of the plan
15 confirmation denial order. The court accordingly declines to reverse the bankruptcy
16 court’s order on this basis.

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19 ⁸ Mr. Bergeron appears to have provided the incorrect citation for *In re Decker*, 865 F.2d
139 (9th Cir. 1989). The court is unable to locate that case.

20 ⁹ Mr. Bergeron also argues that the bankruptcy court failed to address alleged
21 professional misconduct by Deutsche Bank’s counsel in filing Deutsche Bank’s claim.
22 (Bergeron Br. at 15.) But misconduct by Deutsche Bank’s counsel, if any, also has no bearing
on Mr. Bergeron’s satisfaction of the plan requirements. The court therefore does not address
this issue.

Having reviewed the record, the court concludes that the bankruptcy court did not err in denying Mr. Bergeron's motion for reconsideration of the plan confirmation denial order. The bankruptcy court's reconsideration order is therefore affirmed and Mr. Bergeron's appeal of this order is dismissed with prejudice.

B. Mr. Bergeron's Appeal of the Bankruptcy Court's November 7, 2024 Dismissal Order (C24-2069JLR)

As stated, on November 7, 2024, the bankruptcy court dismissed Mr. Bergeron's chapter 13 case and barred him from refile for bankruptcy for 180 days. (Bankr. Dkt. # 62.) Mr. Bergeron timely moved for reconsideration of the dismissal order on November 21, 2024. (Bankr. Dkt. # 75); *see also In re Weston*, 41 F.3d 493, 495 (9th Cir. 1994) ("In this circuit, a motion for reconsideration is considered to be a Bankruptcy Rule 9023 motion[.]"); Fed. R. Bankr. P. 9023(b) (setting 14-day filing deadline for Rule 9023 motions). After the bankruptcy court denied Mr. Bergeron's motion for reconsideration on November 25, 2024, he timely appealed the dismissal order on December 9, 2024. (*See* C24-2069JLR, Not. (Dkt. # 1) at 12¹⁰; Bankr. Dkt. ## 76, 81); *see also Hunanyan*, 2023 WL 4703170, at *1 (holding that Bankruptcy Rule 8002(b)(1)(B) tolls the deadline to file a notice of appeal to 14 days after entry of an order disposing of a Bankruptcy Rule 9023 motion). Accordingly, Mr. Bergeron's December 9, 2024 appeal of the dismissal order is timely. The court therefore considers the merits of his appeal below.

¹⁰ Unless stated otherwise, the citations to the record in this section III.B refer to the C24-2069JLR (W.D. Wash.) docket.

Mr. Bergeron asks the court to reverse the bankruptcy court's November 7, 2024 dismissal order for several reasons. Specifically, Mr. Bergeron argues that the bankruptcy court: (1) lacked jurisdiction to dismiss his bankruptcy case because it "fail[ed] to confirm its oath of office" prior to the dismissal hearing; (2) erred in dismissing his chapter 13 petition based on bad faith without considering his allegations of ineffective counsel, creditor misconduct, and other procedural issues; and (3) deprived him of due process by failing to address his fraud allegations and objection to Deutsche Bank's claim before dismissal. (Bergeron Br. at 5-6.)¹¹ Below, the court first discusses the applicable standards of review, and then addresses each of Mr. Bergeron's arguments.

1. Standard of Review

The court reviews a bankruptcy court order dismissing a debtor's chapter 13 case and imposing a bar to refiling for abuse of discretion. *Erickson*, 2024 WL 4273821, at *1. A bankruptcy court abuses its discretion if its decision is based on an incorrect legal rule, or if its "application of the correct legal standard was (1) 'illogical,' (2) 'implausible,' or (3) without 'support in inferences that may be drawn from the facts in the record.'" *United States v. Hinkson*, 585 F.3d 1247, 1262 (9th Cir. 2009) (citation omitted). A bankruptcy court's legal conclusions are reviewed *de novo*. *Blausey v. United States Trustee*, 552 F.3d 1124, 1132 (9th Cir. 2009). The court considers Mr. Bergeron's arguments on appeal with these principles in mind.

¹¹ Mr. Bergeron asserts five separate issues for appeal in his opening brief. (See Bergeron Br. at 5-6.) The fourth and fifth issues identified by Mr. Bergeron, however, are duplicative of his second and third issues, so the court considers those issues in addressing his second and third issues.

1 2. Oath of Office Violation

2 Mr. Bergeron asserts that the bankruptcy court lacked jurisdiction to dismiss his
3 chapter 13 case because the bankruptcy court “fail[ed] to confirm its oath of office” in
4 violation of 28 U.S.C. § 453 before “presiding over []his case[.]” (Bergeron Br. at 9; *see*
5 *id.* at 9-12.) The court understands Mr. Bergeron to argue that the bankruptcy court’s
6 order is invalid because it did not explicitly read or affirm its oath of office before taking
7 any action in his bankruptcy case.

8 Section 453 requires judges of the United States to take an oath to administer
9 justice and “faithfully and impartially discharge and perform all the duties” prescribed
10 under the Constitution. 28 U.S.C. § 453. Mr. Bergeron has not provided—and the court
11 cannot locate—any case requiring judges to *explicitly* read or affirm this oath before
12 presiding over a case. More importantly, as further explained below, Mr. Bergeron has
13 not identified any conduct by the bankruptcy court that departs from this oath.

14 Accordingly, the court is not persuaded by Mr. Bergeron’s argument.

15 3. Dismissal for Bad Faith

16 Mr. Bergeron also asserts that the bankruptcy court erred by dismissing his chapter
17 13 case for bad faith. (Bergeron Br. at 16-20.) The Trustee responds that the bankruptcy
18 court’s dismissal of Mr. Bergeron’s case was appropriate and should be affirmed. (*See*
19 Tr. Br. at 15-17.) A bankruptcy court’s findings of bad faith are reviewed for clear error.
20 *Eisen v. Curry*, 14 F.3d 469, 470 (9th Cir. 1994).

21 The purpose of a chapter 13 bankruptcy case is to permit a debtor to pay his debts
22 under a plan of reorganization that is fair to his creditors. *In re Anderson*, 3 B.R. 160,

1 163 (S.D. Cal. 1980). To carry out this purpose, the Bankruptcy Code requires that a
2 debtor's chapter 13 plan is proposed in "good faith." 11 U.S.C. § 1325(a)(3). A chapter
3 13 case filed in "bad faith may be dismissed for cause pursuant to 11 U.S.C. § 1307(c)." *Eisen*, 14 F.3d at 470. In considering whether to dismiss a debtor's chapter 13 case for
4 bad faith, the bankruptcy court must apply a four-factor "totality of the circumstances"
5 test. *In re Leavitt*, 171 F.3d 1219, 1224 (9th Cir. 1999) (citing *Eisen*, 14 F.3d at 470). In
6 employing this test, the bankruptcy court examines (1) whether the debtor
7 "misrepresented facts" in his petition or plan, "unfairly manipulated the Bankruptcy
8 Code," or otherwise filed his chapter 13 petition or plan "in an inequitable manner";
9 (2) "the debtor's history of filings and dismissals"; (3) whether the debtor filed for
10 bankruptcy relief "intend[ing] to defeat state court litigation"; and (4) "whether egregious
11 behavior is present[.]" *Id.* (citing cases). Neither malice nor fraudulent intent by the
12 debtor is required for a finding of bad faith. *Id.*

14 Mr. Bergeron contends that the bankruptcy court's finding of bad faith is
15 unsupported by the record and fails to consider the totality of the circumstances.
16 (Bergeron Br. at 16, 20.) The court disagrees. At the hearing on the Trustee's motion to
17 dismiss, the bankruptcy court found that Mr. Bergeron's chapter 13 case was his sixth
18 bankruptcy filing,¹² and that nearly all of his previous bankruptcy cases were dismissed
19 for failure to file required documents. (MTD Hearing at 10:40-12:00; Bankr. Dkt. # 49
20 (listing previous bankruptcy cases).) The bankruptcy court observed that in multiple of

21
22 ¹² The bankruptcy court also noted that Mr. Bergeron's wife had separately filed four
bankruptcy cases. (MTD Hearing at 10:40-11:15.)

1 his previous bankruptcy cases, as in his chapter 13 case before the bankruptcy court, Mr.
2 Bergeron's scheduled assets included his residential property at 5019 Ocean Avenue,
3 Everett, Washington 98203 ("Everett Property"), which was subject to foreclosure
4 proceedings. (MTD Hearing at 11:15-11:55; Schedule A/B (Dkt. # 18) at 7.) Mr.
5 Bergeron filed the instant bankruptcy case approximately one month after the stay was
6 lifted in his wife's case to permit state court foreclosure proceedings in connection with
7 the Everett Property. (MTD Hearing at 12:30-12:45.) Mr. Bergeron's chapter 13 plan
8 also proposed that monthly payments be made to unsecured creditors, but Mr. Bergeron
9 simultaneously represented that he had no unsecured creditors to pay. (MTD Hearing at
10 13:00-13:10, 14:05-14:20, 17:00-17:30; Bankr. Dkt. # 49 at 3.) Moreover, the
11 bankruptcy court noted that Mr. Bergeron had failed to timely file an amended plan as the
12 bankruptcy court had ordered him to do. (MTD Hearing at 13:05-13:36; Bankr. Dkt. # 37
13 at 2.) And in Mr. Bergeron's objection to the Trustee's motion to dismiss, he asserted
14 that the bankruptcy court must deem his chapter 13 plan to be "filed in good faith" until it
15 adjudicated Mr. Bergeron's objection to Deutsche Bank's claim. (Bankr. Dkt. # 49 at 2.)
16 From these findings, the bankruptcy court concluded that Mr. Bergeron's bankruptcy
17 case was filed for purposes of avoiding state court litigation by litigating Deutsche
18 Bank's claim in bankruptcy court, rather than to propose a plan to pay creditors. (*See*
19 MTD Hearing at 14:20-14:33, 17:37-17:58.)¹³ The bankruptcy court accordingly found
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21 ¹³ Indeed, on appeal, Mr. Bergeron represents that he "filed for [chapter 13] relief in good
22 faith to contest a facially defective and potentially fraudulent proof of claim filed by Carrington"
on behalf of Deutsche Bank. (Bergeron Reply Br. at 5.)

1 that Mr. Bergeron filed his chapter 13 case in bad faith, and consequently dismissed his
2 case and barred him from refileing for bankruptcy for 180 days.¹⁴ (Bankr. Dkt. # 62.)
3 Having reviewed the bankruptcy court’s order and the record evidence, the court
4 concludes that the bankruptcy court’s bad faith finding was not clearly erroneous.

5 Mr. Bergeron contends that the bankruptcy court’s dismissal order deprived him of
6 due process because, in his view, he did not have “a meaningful opportunity to contest
7 the bad faith allegations with supporting evidence.” (Bergeron Br. at 19.) This
8 contention, however, is plainly unsupported by the record. The Trustee’s motion to
9 dismiss was filed and served on Mr. Bergeron on September 26, 2024. (Bankr. Dkt.
10 ## 27, 28.) Mr. Bergeron had an opportunity to respond—and indeed, did respond—to
11 the Trustee’s motion in advance of the hearing. (Bankr. Dkt. # 49.) And at the
12 November 6, 2024 hearing, Mr. Bergeron also had an opportunity to argue his opposition
13 to the Trustee’s motion to dismiss. Accordingly, Mr. Bergeron was not deprived of due
14 process. *See Erickson*, 2024 WL 4273821, at *2 (reaching the same conclusion).¹⁵

17 ¹⁴ Mr. Bergeron appears to assert that the bankruptcy court erred by relying on
18 “unverified assertions by the Trustee” in finding bad faith by Mr. Bergeron. (Bergeron Br. at 19;
19 *see id.* at 17 (arguing that the “Trustee failed to substantiate claims of bad faith”).) Mr.
20 Bergeron, however, does not specify which of the Trustee’s allegations were unsubstantiated.
(*See generally id.*) In any event, the court concludes that the reasons cited by the bankruptcy
21 court in finding bad faith are supported by record evidence and therefore are not clearly
22 erroneous.

¹⁵ To the extent Mr. Bergeron argues that the bankruptcy court’s order was improper
because he was not represented by counsel at the November 6, 2024 hearing (*see* Bergeron Br. at
6), the court is not persuaded. *Pro se* debtors are subject to the Bankruptcy Rules, just like other
litigants. *In re Herman*, No. A07-00138-HAR, 2007 WL 1434287, at *1 (Bankr. D. Alaska May
15, 2007).

1 Mr. Bergeron also asserts that in finding bad faith, the bankruptcy court failed to
2 “account for mitigating factors that directly influenced [his] prior [bankruptcy] filings”—
3 namely, that he was “the victim of ineffective assistance of counsel.” (Bergeron Br. at
4 17.) He asserts that *In re Tucker*, 989 F.2d 328 (9th Cir. 1993), required the bankruptcy
5 court to consider whether Mr. Bergeron’s “procedural failures stemmed from external
6 legal deficiencies rather than [his] own conduct.” (*Id.*) Mr. Bergeron, however,
7 mischaracterizes *Tucker*. In that case, the Ninth Circuit reversed the bankruptcy court’s
8 order overruling the trustee’s good faith objection on the basis that the bankruptcy court’s
9 order contained *no* factual findings and wholly failed to address the trustee’s objection.
10 *Tucker*, 989 F.2d at 330. That case is therefore inapposite here.

11 Mr. Bergeron also argues that the bankruptcy court improperly imposed a 180-day
12 filing bar. (Bergeron Reply Br. at 11-13.) Courts within the Ninth Circuit, however,
13 have imposed 180-day filings bars after finding, as the bankruptcy court did here, that the
14 debtor’s bankruptcy case was not filed in good faith. *See, e.g., In re Knedlik*, No.
15 WW-08-1011-KuKJu, 2008 WL 8444815, at *3 (B.A.P. 9th Cir. June 30, 2008)
16 (affirming bankruptcy court’s order imposing 180-day filing bar after concluding in part
17 that the debtor’s petition was “an abuse of the bankruptcy system”); *In re Mitchell*, 357
18 B.R. 142, 157 (Bankr. C.D. Cal. 2006) (concluding 180-day filing bar was warranted
19 after finding debtor acted in bad faith). The court therefore finds no error here.

20 In dismissing Mr. Bergeron’s case, the bankruptcy court employed and
21 appropriately considered the four-factor “totality of the circumstances” test (*see* MTD
22 Hearing at 15:00-18:39), and the bankruptcy court’s findings are supported by the record

evidence. The court therefore concludes that the bankruptcy court did not abuse its discretion in finding that Mr. Bergeron's bad faith constituted cause for dismissal with a 180-day bar to refiling.

4. Failure to Address Mr. Bergeron's Fraud Allegations Before Dismissal

Mr. Bergeron also asserts that the bankruptcy court violated his due process rights by failing to address his fraud allegations regarding Deutsche Bank's claim before dismissing his case for bad faith. (Bergeron Br. at 12-16; *see id.* at 13 (arguing that the bankruptcy court failed to provide Mr. Bergeron a hearing to address his claim objections).) After dismissing Mr. Bergeron's case, the bankruptcy court overruled Mr. Bergeron's claim objection as moot. (Bankr. Dkt. # 68.) Mr. Bergeron asserts that the bankruptcy court therefore "silence[d] [his] right to contest [Deutsche Bank's] fraudulent claim." (Bergeron Reply Br. at 10; *see* Bergeron Br. at 21.)

Mr. Bergeron, however, has not provided—and the court is not aware—of any authority holding that a bankruptcy court must resolve claim objections before dismissing a debtor's case for bad faith. (*See generally* Bergeron Br.; Bergeron Reply Br.) Indeed, the validity of a creditor's claim has no bearing on whether *the debtor* filed his or her bankruptcy case in good faith in the first instance.¹⁶ In similar contexts, courts across districts have dismissed debtors' bankruptcy cases *without* resolving the debtor's claim

¹⁶ Indeed, a debtor must satisfy the "good faith" requirement to proceed in a bankruptcy case. *See* 11 U.S.C. § 1325(a) (requiring "good faith" as a requirement for chapter 13 plan confirmation); *cf. In re 10 Bears at Chiloquin, Inc.*, No. 06-62079-FRA7, 2007 WL 1673538, at *3 (Bankr. D. Or. June 6, 2007) ("It is generally recognized that 'good faith' is a threshold prerequisite to securing Chapter 11 relief.").

1 objections. *See, e.g., Bote v. Derham-Burk*, No. 3:18-cv-02246-WHO, 2018 WL
 2 5454150, at *2 (N.D. Cal. Oct. 29, 2018), *aff'd*, 801 F. App'x 498 (9th Cir. 2020)
 3 (holding that the bankruptcy court did not abuse its discretion by granting the trustee's
 4 motion to dismiss before considering the merits of the debtor's claim objection); *In re*
 5 *Hook*, 469 B.R. 62, 67 (D. Colo. 2011) (stating that claim objection became "moot" after
 6 dismissal of the debtor's case). The court accordingly finds no error in the bankruptcy
 7 court's decision to dismiss Mr. Bergeron's case for bad faith without resolving his claim
 8 objection against Deutsche Bank.¹⁷

9 Mr. Bergeron again argues that under *Heath*, the bankruptcy court was required to
 10 resolve his claim objection before dismissing his bankruptcy case. (Bergeron Reply Br.
 11 at 9 (citing *Heath*, 331 B.R. at 424).) Specifically, Mr. Bergeron contends that the *Heath*
 12 opinion "emphasized that objections implicating standing, fraud, or defective
 13 documentation must be addressed" before dismissal. (*See id.*) But *Heath* did not involve
 14 dismissal of a bankruptcy case; rather, as stated, the Bankruptcy Appellate Panel
 15 considered the debtors' objections to a certain creditor's proofs of claim for purposes of
 16 determining whether the creditor's claims should be allowed in the debtors' *ongoing*

17
 18
 19 ¹⁷ Mr. Bergeron appears to argue that, under 11 U.S.C. § 502(b), the bankruptcy court
 20 was required to adjudicate his claim objection before dismissing his case. (*See* Bergeron Br. at
 21 14, 18; Bergeron Reply Br. at 5.) Section 502(b) provides that "if [an] objection to a claim is
 22 made, the court, after notice and a hearing, shall determine the amount of such claim[.]" with
 exceptions inapplicable here. 11 U.S.C. § 502(b). The court, however, is not aware of any
 authority providing that a bankruptcy court must resolve claim objections before dismissing a
 debtor's case for bad faith. Indeed, as stated, *Bote* and *Hook* demonstrate that the bankruptcy
 court need not resolve claim objections before dismissal of a bankruptcy case.

chapter 7 case. *See Heath*, 331 B.R. at 426. Accordingly, *Heath* does not support Mr. Bergeron’s argument.

In light of the foregoing, the court concludes that the bankruptcy court did not err in dismissing Mr. Bergeron’s chapter 13 case for bad faith before addressing the merits of Mr. Bergeron’s claim objection. The bankruptcy court’s dismissal order is therefore affirmed and Mr. Bergeron’s appeal of the bankruptcy court’s dismissal order is dismissed with prejudice.

C. Mr. Bergeron’s Appeal of the Bankruptcy Court’s November 25, 2024 Order Denying his Motion for Reconsideration (C24-2070JLR)

On November 25, 2024, the bankruptcy court denied Mr. Bergeron’s motion seeking reconsideration of the dismissal order. (Bankr. Dkt. # 76.) Mr. Bergeron timely appealed the bankruptcy court’s reconsideration order on December 9, 2024. (C24-2070JLR (W.D. Wash.), Not. (Dkt. # 1)¹⁸; *see* Bankr. Dkt. # 82); Fed. R. Bankr. P. 8002(a) (setting 14-day deadline to file notice of appeal). Mr. Bergeron’s motion for reconsideration of the dismissal order—and his appeal of the bankruptcy court’s reconsideration order—raise issues nearly identical to those raised in his appeal of the bankruptcy court’s dismissal order discussed above. (*Compare* C24-2069JLR, Bergeron Br. at 5-6, *with* C24-2070JLR, Bergeron Br. at 5-6; *see* Bankr. Dkt. # 75.)¹⁹ As stated,

¹⁸ Unless stated otherwise, the citations to the record in this section III.C refer to the C24-2070JLR (W.D. Wash.) docket.

¹⁹ In his appeal of the bankruptcy court’s reconsideration order, Mr. Bergeron also argues that the bankruptcy court’s “failure to verify foreclosure standing in [his] co-borrower’s [i.e., his wife] case raises due process concerns” and “violates consumer protection laws designed to prevent fraudulent claims.” (Bergeron Br. at 27.) The bankruptcy court’s purported failure to

1 the court reviews a bankruptcy court order denying a debtor's motion for reconsideration
2 for abuse of discretion. *Erickson*, 2024 WL 4273821, at *1.

3 If a motion for reconsideration is timely filed within 14 days following the date of
4 entry of the disputed order, "the motion is treated as a motion to alter or amend the
5 judgment under [Federal Rule of Civil Procedure] 59(e)." *In re Gomez*, Adv. No.
6 11-02360-TBD, 2012 WL 5938722, at *3 (B.A.P. 9th Cir. Nov. 28, 2012) (citation
7 omitted). "Such a motion is "analogous to a motion for new trial or to alter or amend the
8 judgment pursuant to [Rule] 59 as incorporated by Rule 9023." *Id.* (citation omitted).
9 "Absent highly unusual circumstances, a motion under [] Rule 59(e) should not be
10 granted unless the court is presented with newly discovered evidence, committed clear
11 error, or if there is an intervening change of controlling law." *In re Inglewood Woman's*
12 *Club, Inc.*, No. 4:15-BK-15376-SHG, 2017 WL 2492530, at *5 (B.A.P. 9th Cir. June 7,
13 2017), *aff'd*, 708 F. App'x 392 (9th Cir. 2017). Importantly, motions for reconsideration
14 are not for "rehashing" arguments or for asserting new legal theories that could have been
15 raised previously. *Id.*

16 In its order denying reconsideration of its dismissal order, the bankruptcy court
17 concluded that Mr. Bergeron failed to provide any new facts or law that could not have
18 previously been brought before the bankruptcy court.²⁰ (Bankr. Dkt. # 76 at 2.) Having

19 _____
20 address standing issues in Mr. Bergeron's wife's bankruptcy case are not before this court on
21 appeal and therefore will not be considered.

21 ²⁰ In his opening appellate brief, however, Mr. Bergeron does raise as a new argument
22 that the trustee's counsel's involvement in both his chapter 13 case and in his wife's chapter 7
case "[a]mounts to collusion" that "compromise[s] the integrity of [Mr. Bergeron's chapter 13]

1 reviewed the record, the court concludes that the bankruptcy court did not abuse its
2 discretion in denying Mr. Bergeron's motion for reconsideration of its dismissal order.

3 IV. CONCLUSION

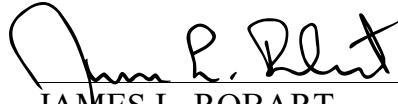
4 For the foregoing reasons, the court ORDERS as follows:

5 (1) The bankruptcy court's October 18, 2024 order denying Mr. Bergeron's
6 motion for reconsideration of the bankruptcy court's plan confirmation denial order is
7 AFFIRMED, and Mr. Bergeron's appeal of that order is DISMISSED with prejudice
8 (C24-1815JLR);

9 (2) The bankruptcy court's November 7, 2024 order dismissing Mr. Bergeron's
10 chapter 13 case and barring him from refiling for bankruptcy for 180 days is
11 AFFIRMED, and Mr. Bergeron's appeal of that order is DISMISSED with prejudice
12 (C24-2069JLR); and

13 (3) The bankruptcy court's November 25, 2024 order denying Mr. Bergeron's
14 motion for reconsideration of its order dismissing his case is AFFIRMED, and Mr.
15 Bergeron's appeal of that order is DISMISSED with prejudice (C24-2070JLR).

16 Dated this 12th day of June, 2025.

17 
18 JAMES L. ROBART
United States District Judge

19
20 _____
21 case." (Bergeron Br. at 25; *see* Bankr. Dkt. # 75 (Mr. Bergeron's motion for reconsideration).)
22 This argument does not change the court's analysis. This argument was not before the
bankruptcy court at the time it denied Mr. Bergeron's motion for reconsideration. Furthermore,
Mr. Bergeron provides no evidence of collusion by the trustee's counsel, nor does he explain
how the trustee's counsel's involvement in both cases evinces collusion.